

CALIFORNIA LITIGATION:

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What the Internet Can Do for You

By Eugene S. Wilson

If you are a trial lawyer you must be aware of the Internet. This is a litigation tool you cannot ignore.

Intel Chairman Andrew Grove was recently quoted as saying, "The advent of the Internet, the more-than-ever-interconnected personal computers are going to be the basis of commerce, industry, education, health care, every element of life." He is not alone in his view of the Internet's significance. Yet, it remains an open question how Internet technology can be adapted for litigation practice.

The Internet, of course, means the high-speed global computer network. Anyone can buy a connection to this network, and so it has become possible to exchange digital information with a vast number of computer users.

The relation between the Internet and the practice of law is apparent. Law practice is the collection, filtering and communication of information. The Internet, by virtue of the high-speed communications it makes possible, allows us to handle information in new ways. The lawyer's traditional tools - the letter, the book, the telephone and the facsimile - are today joined by impressive new Internet tools.

- E-Mail -

E-mail or electronic mail is one of the most remarkable of the Internet tools. E-mail is a simple idea. It allows one, whether in the office or on the road, to quickly craft a short written message and instantly send it across the Internet to any location around the world where there is an e-mail address. E-mail, despite being positioned against established technologies such as voice-mail and facsimile, has been widely adopted in business.

E-mail is valuable in managing the diverse resources of a complex case. Addressing and delivery of an e-mail message is automated. What amounts to written communication is sent and received virtually instantaneously. E-mail messages are often cryptic but still move whatever the topic of the day is one step forward. Responding to an e-mail is as easy as sending one. E-mail avoids telephone trees, holding, and "phone-tag."

Additionally, digital information can be carried with an e-mail message. For example, scanned documents, draft pleadings, spreadsheets, programs, even video clips from a deposition can be transmitted easily from one location to another with appropriate security precautions. Among the innovations now under study is electronic filing via e-mail in federal courts (www.uscourts.com).

Today, e-mail is a mature and cost-effective Internet technology. The ordinary letter has, in effect, become automated.

- Remote Access -

Remote access is established when two or more computers anywhere establish an active link via the Internet. Assuming access is adequate, the linked computers operate as if they were sitting side-by-side. Wherever there is a telephone line, a remote access session can be established.

A remote access connection is more robust than simple e-mail. Subject to security precautions, the remote user can access any information maintained on the host system. For example, scanned documents may be

retrieved, information from databases such as witness lists, deposition transcripts, memoranda, and briefs can be searched, databases of legal authorities can be accessed, correspondence may be sent, contact lists and calendaring can be used, and other useful functions can be performed by the remote user.

- Virtual Meetings -

Remote access can be taken further. Inexpensive software packages that are designed to set up multiparty conferences over the Internet are available. Users at several sites participate in what is referred to as a virtual meetings.

A virtual meeting can be structured in several ways. For example, a telephone conference call can be set up to enable voice communication. During the meeting, similar information is selected and displayed on each participant's screen. Changes in the information during the meeting are reflected on each participant's screen.

Live video can be added to virtual meetings. Today, the common wisdom is that the benefits of live video conferencing are too intangible. But digital video is a powerful and rapidly developing technology. Most litigation practitioners have at least rudimentary video capability already. Linking existing video capability to the Internet is a logical next step.

Obviously, the capability to hold virtual meetings world-wide via the Internet will be of great significance. For example, there is the potential to use a virtual meeting to conduct remote video depositions. Federal Rule 30 (b) (7). Client conferences, meet-and-confer, status conferences, and settlement discussions could all potentially take place in the future by means of virtual meetings.

- Online Legal Research -

The Internet can now be used to access legal databases such as WestLaw, Lexis, and Jurisearch. While we have had the ability to access such resources using ordinary telephone lines, the advent of Internet access enhances the value of these services.

Access to a full-featured online database is, of course, an exceedingly valuable tool in litigation. The search capabilities of online databases frequently yield authority that would not have been located otherwise. Yet, steep online charges and technical shortcomings have often kept online research out of the budget in small and medium-sized cases.

The Internet is improving this situation. First, there are signs of increased competition in the market. Some vendors have already dropped the price of unlimited online research for California materials accessed via the Internet. Significant reductions in the price for federal materials will likely follow.

Lexis has a Web page that provides Internet access to California cases and statutes. WestLaw has announced that it will offer Web site access beginning this summer. Jurisearch (www.jurisearch.com) currently provides access via an Internet Web site.

Accessing legal databases via the Internet will be more efficient. Via the Internet, lawyers can conveniently access a variety of databases and other Internet resources. All these resources will be available using only one program, an Internet browser. There will be less hassle in setting up new services, learning how to use new programs, and updating specialized software.

Most California lawyers can now readily obtain ISDN telephone lines. ISDN is digital telephone service over existing telephone wiring. Today, ISDN will generally quadruple line speed. ISDN enables even small law offices to obtain a high-speed connection to the Internet. As legal database services become available via Internet Web sites, ISDN users will be able to use their high-speed Internet communication link to access these services.

Internet-based access will also mean that, unlike the current programs, lawyers will not be required to log off and then log back on every time there is a pause in their research process. In addition, online printing will be available, rather than log-off to print.

Another useful aspect of Web-based access to legal databases is the potential for programming specialized links. Today, a lawyer who wishes to update his or her existing legal knowledge-base is faced with a tedious manual research process. Internet browsers, however, are programmable. Thus, the potential exists with cooperating database publishers to enable simple and flexible programs, like macros, to automate the process of updating on-site database files with recent case law and statutory developments.

How well will these Web pages perform? WestLaw indicates that it will be downloading at least one document at a time to their Web site users. This expedient should help to reduce the annoying jerky screen.

— Other Online Legal Resources -

The Internet has started a trend in legal research referred to as "legal research on the Internet." This involves obtaining information from a vast array of government agencies, law schools, bar associations, law firms and individuals who have undertaken to make legal materials available at Web sites.

Legal research on the Internet, however, should not be considered a replacement for traditional legal research. The depth and scope of coverage provided by these resources is rarely, if ever, the equivalent of a standard legal library. In some cases, there are also questions about how current and accurate the resources are.

Nevertheless, legal research on the Internet can be valuable. For example, a collection of recent United States Supreme Court materials is available from the Legal Information Institute (supct.law.cornell.edu/supct/index.html). Among the additional benefits of this site is a service that provides an e-mail copy of new Supreme Court options on the day of issuance. Also, biographical information on Supreme Court justices is available.

Still, locating useful legal materials on the Internet can be time-consuming. The Internet is not organized like a library. Research on the Internet typically begins at a list of Web sites that may have useful information on a selected topic. For example, a good starting point for Internet legal research is FindLaw (www.findlaw.com), which provides links to a wide variety of Internet-based legal materials. Another excellent list of links to legal materials is the Legal List (www.lcp.com/The-Legal-List/index4.html). Like text-based research, efficient use of Internet resources develops with time. As one gains familiarity with sites that provide useful information, it is a simple matter to bookmark them for future reference.

- General Internet Research -

The great majority of information available on the Internet is non-legal in nature. For example, there is a Web site called "555.1212. com" (www.555.1212.com). It provides the equivalent of a national telephone directory, including e-mail and Web site addresses. It can be searched like a reverse telephone directory. Obviously, "555.1212.com" is a useful resource for locating witnesses.

The Internet is also an excellent tool to locate experts. As with any Internet research, one typically begins with a search engine. Search engines are catalogued lists of organizations and individuals that post information on the Web. Operating a search engine is as simple as typing in a key word. The search engine will return a list of matches. Clicking items on the list sends the browser to the specified site.

Commonly-used search engines include Yahoo (www.yahoo.com), Lycos (<http://a2z.lycos.com/>), Excite (www.excite.com), and AltaVista (altavista.digital.com). There are also lists that provide links to sites considered to be among the best by reviewers. For example, see Magellan (www.mckinley.com) and Lycos (a2z.lycos.com).

Links to libraries can be helpful in locating books on various subjects. Typically, one searches an online catalogue. The Library of Congress Home Page (<http://marvel.loc.gov>) provides several methods for searching Library of Congress catalogs. The University of California maintains its Melvyl catalog (www.melvyl.ucop.edu) which integrates holdings from all nine campuses. Other online library catalogs from around the world are listed at the Virtual Information Center (www.lib.berkeley.edu/Collections/catatarg).

[html](#)).

Courts and especially government agencies have posted a vast amount of information on the Internet. The Federal Web Locator, which is operated by the Villanova Center for Information Law and Policy (www.vcilp.org), provides a single point of access to virtually all federal government information posted on the Web. A variety of different courts have established Web pages and other information services. The California Court's home page is at (www.courtinfo.ca.gov). Additionally, a growing variety of companies sell access to specialized non-legal databases via the Internet.

- Newsgroups and Mailing Lists -

Discussion groups can be a valuable feature of Internet access. Individuals register to participate in the discussion group. Information is posted and received via e-mail.

The ABA maintains a number of discussion groups. (www.abanet.org/discussions/open.html). Unfortunately, the Litigation Section has not yet established any discussion groups. Hopefully, this situation will change.

A list of legal discussion groups as well as other Internet resources is available in D. Botluk, *The Legal List* (Lawyers Cooperative Publishing 1996).

- Law Firm Web Sites -

Many organizations, including law firms, consider a Web site to be a worthwhile investment. Typically, law firm Web sites provide background on the firms' attorneys, articles by firm lawyers, links to related sites, and other information (www.lawguru.com; www.fenwick.com).

Despite the fact that many products today are sold over the Internet, the delivery of professional services over the Internet has proceeded slowly. If, as Intel's CEO stated, the Internet will become the basis of commerce, it should be anticipated that eventually the Internet will play an increasingly important role in the delivery of legal services.

- Bar Associations and MCLE -

A wealth of information is online concerning bar associations and continuing legal education. The State Bar of California Home Page (www.calbar.org) provides information on bar committees, continuing legal education, and a variety of useful links.

The Litigation Section of the State Bar of California has a Web page at (www.calbar.org/litigation.htm), where material from *California Litigation* and *California Litigation Review* is posted with section goals, links to legislative news, a calendar of upcoming events, and committee information.

Information about the ABA is at (www.abanet.org). The Section of Litigation of the ABA has a home page at (www.abanet.org/litigation/home.html). It is using its Web site to obtain membership input on various issues. For example, the Civil Trial Practices Standards have recently been posted for comment. A number of ABACommittees also have home pages at the ABA site.

Most MCLE providers have Web pages describing their offerings. NITA, for example, offers online registration (www.nd.edu/~nita). The ABA provides ongoing e-mail announcements of ABA-CLE programs (www.abanet.org/discussions/open.html). Additionally, continuing legal education programs are being delivered directly across the Internet by some providers.

- Custom News Services -

The Internet has also enhanced the delivery of news. Electronic news clipping services are available. Internet clipping services compile news from sources including Reuters, the Los Angeles Times, and magazines. Articles are catalogued by topic. Subscribers select topics of interest, and the news service assembles articles on those topics and makes them available to the user via e-mail daily. News services make sense.

They are cost-effective, provide tailored coverage and save resources (pnp.individual.com; www.counsel.com; www.ljx.com; www.elibrary.com).

- Conclusion -

The rapid emergence of Internet technology and improved Internet security measures mean many things for you. Increasingly, we will see documents being transmitted, received, stored, and accessed electronically via secure Internet links. Research on issues, legal and nonlegal, will be done via the Internet. Interpersonal communications including data and video will be facilitated via Internet computer links. The trial lawyer's community will become global.

Further resources for trial lawyers using the Internet can be found in the ABA List of Law-Related Internet Books and Newsletters (www.abanet.org/lpm/magazine/booklist.html). The ABA also has a discussion group, INET-901, concerning the Internet. (www.abanet.org/discussions/open.html).

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